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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

)	Case No.
)	
RICHARD JOHNSON,)	<i>Civil Rights</i>
Plaintiff,)	
	)	COMPLAINT FOR
vs.	)	PRELIMINARY AND
	)	PERMANENT INJUNCTIVE
HADAD PETROLEUM, INC., a California	)	RELIEF AND DAMAGES:
corporation d/b/a ARCO; and DOES 1-10,	)	DENIAL OF CIVIL RIGHTS AND
Inclusive,	)	ACCESS TO PUBLIC
Defendants.	)	FACILITIES TO PHYSICALLY
	)	DISABLED PERSONS, PER
	)	FEDERAL AND CALIFORNIA
	)	STATUTES (INCLUDING CIVIL
	)	CODE §§ 51, 52, 54, 54.1, 54.3,
	)	AND § 55; AND HEALTH &
	)	SAFETY CODE §§ 19955 ET
	)	SEQ.); INJUNCTIVE RELIEF
	)	PER TITLE III, AMERICANS
	)	WITH DISABILITIES ACT OF
	)	1990

Complaint for Preliminary and Permanent Injunctive Relief and Damages: Denial of Civil Rights and Access to Public Facilities to Physically Disabled Persons, Per Federal and California Statutes (Including Civil Code §§ 51, 52, 54, 54.1, 54.3, and § 55; and Health & Safety Code §§ 19955 et seq.); Injunctive Relief Per Title III, Americans with Disabilities Act of 1990

DEMAND FOR JURY TRIAL

Plaintiff RICHARD JOHNSON ("Plaintiff") complains of Defendants HADAD PETROLEUM, INC., a California corporation d/b/a ARCO; and DOES 1-10, Inclusive, and each of them, and alleges as follows

1. INTRODUCTION: The Americans with Disabilities Act ("ADA") was enacted over twenty years ago, establishing the most important and comprehensive civil rights law for persons with disabilities in our country's history. One of the principal goals of the ADA is the integration of people with disabilities into the country's economic and social life. (42 U.S.C. §12101(a)). Despite this long-standing mandate, Defendants - the owners, operators, lessors and lessees of a Gas Station known as Arco ("Gas Station"), located at 790 North Shoreline Boulevard, in Mountain View, California - have failed to provide disabled persons with full and equal access to their goods and services in violation of the ADA by constructing, altering, and/or failing to remove architectural barriers that prevent persons who use wheelchairs from using and enjoying their facilities in as full and equal manner as able-bodied persons. In so doing, Defendants have also violated California civil rights laws including Health and Safety Code §19955 *et seq.*; the Unruh Civil Rights Act ("Unruh Act"), Cal. Civ. Code §51 *et seq.*, and the Disabled Persons Act, Cal. Civ. Code §54 *et seq.*

2. As a result of Defendants' discriminatory acts and omissions, Plaintiff has suffered, and will continue to suffer, damages, and has been, and will continue to be prevented and deterred from accessing and using Defendants' goods, services and facilities to the same extent as, and in a manner equal to, his able-bodied peers. Through this lawsuit, Plaintiff seeks injunctive relief to require Defendants to make these facilities accessible to disabled persons and to ensure that any disabled person who attempts to use these facilities will be provided accessible facilities. Plaintiff also seeks recovery of damages for his physical, mental and emotional injuries, and his discriminatory experiences and denial of access and of civil rights, which denial is continuing as a result of Defendants' failure to provide disabled accessible facilities. Plaintiff also seeks recovery of reasonable statutory attorney fees, litigation expenses and costs, under federal and state law.

3. JURISDICTION: This Court has jurisdiction of this action pursuant to 28 USC §

Complaint for Preliminary and Permanent Injunctive Relief and Damages: Denial of Civil Rights and Access to Public Facilities to Physically Disabled Persons, Per Federal and California Statutes (Including Civil Code §§ 51, 52, 54, 54.1, 54.3, and § 55; and Health & Safety Code §§ 19955 *et seq.*); Injunctive Relief Per Title III, Americans with Disabilities Act of 1990

1 1331 for violations of the Americans with Disabilities Act of 1990, 42 USC §§ 12101 *et*
2 *seq.* Pursuant to pendant jurisdiction, attendant and related causes of action arising from the
3 same facts are also brought under California law, including but not limited to violations of
4 Health & Safety Code §§ 19953-19959; California Civil Code §§ 51, 52, 54, 54.1, 54.3 and
5 55; and Title 24 California Code of Regulations.

6 4. **VENUE:** Venue is proper in this court pursuant to 28 USC § 1391(b) and is founded
7 on the fact that the real property which is the subject of this action is located in this district
8 and that Plaintiff's causes of action arose in this district.

9 5. **INTRADISTRICT:** This case should be assigned to the San Francisco/Oakland
10 intradistrict as the real property which is the subject of this action is located in this
11 intradistrict and Plaintiff's causes of action arose in this intradistrict.

12 6. **PARTIES:** Plaintiff was in a motorcycle accident, which left him paralyzed from the
13 waist down. Consequently, Plaintiff is physically disabled as defined by Department of
14 Justice regulation 28 C.F.R. §36.104 and California Government Code § 12926, and a
15 member of the public whose rights are protected by these laws. He requires the use of a
16 wheelchair for mobility. Johnson possesses a DMV issued disabled parking placard and is
17 entitled to park in disabled accessible parking spaces, including van accessible parking
18 spaces, and to travel on and along public paths of travel between such parking facilities and
19 areas to which the general public is invited. He is also entitled to fully accessible facilities
20 with the public areas of the Gas Station. Plaintiff is, and at all times relevant hereto was, a
21 resident of California.

22 7. Defendants HADAD PETROLEUM, INC., a California corporation d/b/a ARCO; and
23 DOES 1-10, Inclusive are the owners, operators, lessors, and lessees of the business,
24 property, buildings, parking lots, and/or portions thereof located at 790 North Shoreline
25 Boulevard, Mountain View, California, including but not limited to the Gas Station and the
26 walkways and parking places serving the Gas Station. The Gas Station, walkways and
27 adjacent parking facilities are each a "public accommodation and business establishment"
28 subject to the requirements of multiple categories of § 301(7) of the Americans with
Disabilities Act of 1990, of California Health & Safety Code §§ 19953 *et seq.*, and of

California Civil Code §§51 *et seq.* and 54 *et seq.* On information and belief, these facilities have, since July 1, 1970, undergone construction and/or “alterations, structural repairs, or additions,” subjecting each such facility to disabled access requirements per Health & Safety Code §§ 19955-19959 *et seq.*, and, as to alterations since January 26, 1993, to the disabled access requirements of § 303 of the Americans with Disabilities Act of 1990. Further, irrespective of the alteration history, such premises are subject to the “readily achievable” barrier removal requirements of Title III of the Americans With Disabilities Act of 1990, as defined by ADA § 301(9).

8. The true names and capacities of Defendants DOES 1 through 10, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes that each of the Defendants herein designated as a Doe is legally responsible in some manner for the events and happenings herein referred to and caused injury and damages proximately thereby to Plaintiff; Plaintiff prays leave of Court to amend this Complaint to show such true names and capacities when the same have been ascertained.

9. Defendants HADAD PETROLEUM, INC., a California corporation d/b/a ARCO; and DOES 1-10, Inclusive, are and were the owners, operators, lessors and lessees of the subject business, property and/or building at all times relevant to this Complaint. Plaintiff is informed and believes that each of the Defendants herein is the agent, employee or representative of each of the other Defendants, and performed all acts and omissions stated herein within the scope of such agency or employment or representative capacity, and is responsible in some manner for the acts and omissions of the other Defendants in proximately causing the damages complained of herein.

**FIRST CAUSE OF ACTION:
DAMAGES AND INJUNCTIVE RELIEF FOR DENIAL OF FULL AND
EQUAL ACCESS TO PUBLIC FACILITIES IN A PUBLIC ACCOMMODATION
(California Health & Safety Code §§ 19955 *et seq.*, Civil Code § 54 *et seq.*)**

10. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the

Complaint for Preliminary and Permanent Injunctive Relief and Damages: Denial of Civil Rights and Access to Public Facilities to Physically Disabled Persons, Per Federal and California Statutes (Including Civil Code §§ 51, 52, 54, 54.1, 54.3, and § 55; and Health & Safety Code §§ 19955 *et seq.*); Injunctive Relief Per Title III, Americans with Disabilities Act of 1990

1 factual allegations contained in Paragraphs 1 through 9, above, and incorporates them
2 herein by reference as if separately replied hereafter.

3 11. Plaintiff RICHARD JOHNSON and other similarly situated physically disabled
4 persons, including those who require the use of a wheelchair, are unable to use public
5 facilities on a "full and equal" basis unless each such facility is in compliance with the
6 provisions of California Health & Safety Code §§ 19955 *et seq.* Plaintiff is a member of
7 that portion of the public whose rights are protected by the provisions of Health & Safety
8 Code §§ 19955 *et seq.*

9 12. Health & Safety Code §§ 19955 and 19955.5 were enacted "[t]o ensure that public
10 accommodations or facilities constructed in this state with private funds adhere to the
11 provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the
12 Government Code." On information and belief the provisions of both Health and Safety
13 Code §§ 19955 and 19955.5, apply to the subject facilities. Title 24, California Code of
14 Regulations, formerly known as the California Administrative Code, was in effect at the
15 time of each construction and alteration which, on information and belief, occurred at such
16 public facility since July 1, 1982, thus requiring access complying with the specifications
17 of Title 24 whenever each such new construction or "alteration, structural repair or
18 addition" was carried out. On information and belief, Defendants and/or their predecessors
19 in interest carried out construction, alterations, structural repairs, or additions to such
20 buildings, walkways, parking areas, and facilities during the period Title 24 has been in
21 effect. Further, Plaintiff alleges that construction, alterations, structural repairs, and/or
22 additions which triggered access requirements at all relevant portions of the facilities, also
23 occurred between July 1, 1970 and July 1, 1982, and required access pursuant to the A.S.A.
24 (American Standards Association) Regulations then in effect, pursuant to the incorporated
25 provisions of California Government Code §§ 4450 *et seq.*

26 13. **FACTUAL STATEMENT:** At all times mentioned herein, Plaintiff RICHARD
27 JOHNSON has been a qualified disabled person due to paraplegia. His disabilities require
28 him to use a wheelchair for mobility. On or about March 8, 2014, as well as on other prior
29 numerous occasions, Plaintiff visited the Gas Station located at 790 North Shoreline

1 Boulevard in Mountain View, CA. During his visit, Plaintiff was exposed to unreasonable
2 risk of physical injury and left Arco feeling extremely embarrassed all because of Arco's
3 failure to comply with the ADA.

4 14. The area surrounding the fuel pumps at Gas Station have numerous barriers which are
5 a hazard and cause embarrassment for Plaintiff and others similarly situated. For example,
6 after stopping his vehicle next to one of the fuel pumps, Plaintiff noticed that the gas station
7 did not have an option to pay by credit card at the fuel pump. This would not be such an
8 issue if the gas station provided an ATM that was usable by the disabled. Unfortunately,
9 the space in front of the ATM, situated between the fuel pumps, is considerably narrower
10 than the mandated dimensions under the ADA. Plaintiff could not safely position himself in
11 front of the ATM in such a way that he could reach the keypad and the cash dispenser. A
12 Gas Station attended did offer to help but Plaintiff did not feel comfortable providing a
13 stranger with his debit card pin number.

14 15. The store located on Gas Station's premises also has a number of ADA violations
15 which prevent Plaintiff and others similarly situated from equal access. For instance, there
16 is no path of travel, the purpose of which is to provide a zone of safety for patrons, from the
17 gas station to the store front. Had this path of travel been available, Plaintiff could have
18 navigated to the store and paid for gas with cash. Feeling unsafe about navigating across
19 the Gas Station's premises and extremely embarrassed by the whole situation, Plaintiff
20 chose to buy gas elsewhere.

21 16. Plaintiff hopes to have the opportunity to have equal access to the goods and services
22 offered at the gas station. This, however, is not feasible as long as Defendants choose to
23 discriminate against the disabled by not complying with the ADA.

24 17. Further, on information and belief, and based on preliminary investigation by
25 Plaintiff's representatives, the premises were also illegally inaccessible in multiple other
26 respects. All of these barriers to access render the premises inaccessible to and unusable by
27 physically disabled persons. Such architectural barriers include, but not limited to:

- 28 • ATM machine only debt or cash;
- No 30x40 space in front of ATM machines;

- No sign indicating what dispenser is the ADA dispenser;
- No path of travel between the dispensers/ATM,s to store front;
- No path of travel from water/air station to front door;
- Reach ranges at ATM machines are high;
- No Truncated domes when crossing car path of travel;
- Paper towels at gas dispensers are high and beyond reach ranges;
- No path from public right of way;
- The Store also have ADA issues.

18. These barriers to access are listed without prejudice to Plaintiff citing additional barriers to access after inspection by plaintiff's access consultant, per the 9th Circuit's standing standards under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008), *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9th Cir. 2011), and the General Order 56 requirements for Northern District of California "ADA" Title III cases. All of these barriers to access render the premises inaccessible to and unusable by physically disabled persons. All facilities must be brought into compliance with all applicable federal and state code requirements, according to proof.

19. Further, each and every violation of the Americans With Disabilities Act of 1990 (as pled in the Third Cause of Action, *infra*, the contents of which are replied and incorporated herein, word for word, as if separately replied), also constitutes a separate and distinct violation of California Civil Code § 54(c), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code §§ 54.3 and 55.

20. Further, each and every violation of the Americans With Disabilities Act of 1990 (as pled in the Third Cause of Action, *infra*, the contents of which are replied and incorporated herein, word for word, as if separately replied), also constitutes a separate and distinct violation of California Civil Code § 54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code §§ 54.3 and 55.

21. **INJUNCTIVE RELIEF:** Plaintiff seeks injunctive relief to prohibit the acts and

1 omissions of Defendants as complained of herein which are continuing on a day-to-day
2 basis and which have the effect of wrongfully excluding Plaintiff and other members of the
3 public who are physically disabled, including but not limited to wheelchair users, from full
4 and equal access to these public facilities. Such acts and omissions are the cause of
5 humiliation and mental and emotional suffering of Plaintiff in that these actions continue to
6 treat Plaintiff as an inferior and second class citizen and serve to discriminate against him
7 on the sole basis that he is a person with disabilities who requires the use of a wheelchair
8 for movement in public places. Plaintiff is unable, so long as such acts and omissions of
9 Defendants continue, to achieve full and equal access to and use of these public facilities,
10 and cannot return to use these facilities until they are made properly accessible to disabled
11 persons. Plaintiff alleges that he intends to do so, once legally required access has been
12 provided. The acts of Defendants have proximately caused and will continue to cause
13 irreparable injury to Plaintiff if not enjoined by this Court. Plaintiff seeks injunctive relief
14 as to all areas of the premises that he personally encountered. Further, as to all areas
15 identified before or during this litigation by Plaintiff's access consultant, that Plaintiff or
16 other physically disabled persons may encounter in the future (under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008), *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939
17 (9th Cir. 2011), and the General Order 56 requirements for Northern District of California
18 "ADA" Title III cases), Plaintiff prays leave to amend this complaint to obtain injunctive
19 relief. As to those of the Defendants that currently own, operate, and/or lease (from or to)
20 the subject premises, Plaintiff seeks preliminary and permanent injunctive relief to enjoin
21 and eliminate the discriminatory practices and barriers that deny equal access for disabled
22 persons, and for reasonable statutory attorney fees, litigation expenses and costs.

22. Wherefore Plaintiff asks this Court to preliminarily and permanently enjoin any
23 continuing refusal by Defendants to grant full and equal access to Plaintiff in the respects
24 complained of and to require Defendants to comply forthwith with the applicable statutory
25 requirements relating to access for disabled persons. Such injunctive relief is provided by
26 California Health & Safety Code § 19953 and California Civil Code § 55, and other law.
27 Plaintiff further requests that the Court award damages pursuant to Civil Code § 54.3 and

1 other law and attorney fees, litigation expenses, and costs pursuant to Health & Safety
2 Code § 19953, Civil Code §§ 54.3 and 55, Code of Civil Procedure § 1021.5 and other law,
3 all as hereinafter prayed for.

4 23. **DAMAGES:** As a result of the denial of equal access to the facility and due to the
5 acts and omissions of Defendants and each of them in owning, operating, leasing,
6 constructing, altering, and maintaining the subject facilities, Plaintiff suffered a violation of
7 his civil rights, including but not limited to rights under Civil Code §§ 54 and 54.1, and
8 suffered physical, mental and emotional personal injuries, all to his damages per Civil Code
9 § 54.3, including general and statutory damages, as hereinafter stated. Defendants' actions
10 and omissions to act constitute discrimination against Plaintiff on the sole basis that he was
11 and is physically disabled and unable, because of the architectural and other barriers
12 created and/or maintained by the Defendants in violation of the subject laws, to use the
13 public facilities on a full and equal basis as other persons.

14 24. At all times herein mentioned, Defendants knew, or in the exercise of reasonable
15 diligence should have known, that their barriers and practices at their subject facilities
16 violated disabled access requirements and standards, and had a discriminatory affect upon
17 Plaintiff and upon other physically disabled persons, but Defendants have refused to rectify
18 the violations, and presently continue a course of conduct in maintaining architectural
19 barriers that discriminate against Plaintiff and similarly situated disabled persons.

20 25. **FEES AND COSTS:** As a result of Defendants' acts, omissions, and conduct,
21 Plaintiff has been required to incur attorney fees, litigation expenses, and costs as provided
22 by statute, in order to enforce Plaintiff's rights and to enforce provisions of the law
23 protecting access for disabled persons and prohibiting discrimination against disabled
24 persons. Plaintiff therefore seeks recovery of all reasonable attorney fees, litigation
25 expenses, and costs, pursuant to the provisions of Civil Code §§ 54.3 and 55, and
26 California Health & Safety Code § 19953. Additionally, Plaintiff's lawsuit is intended to
27 require that Defendants make their facilities accessible to all disabled members of the
28 public, justifying "public interest" attorney fees, litigation expenses and costs pursuant to
the provisions of California Code of Civil Procedure § 1021.5 and other applicable law.

1 WHEREFORE, Plaintiff prays for damages and injunctive relief as hereinafter
2 stated.

3
4 **SECOND CAUSE OF ACTION:**
5 **VIOLATION OF CALIFORNIA LAW INCLUDING: THE UNRUH ACT,**
6 **CIVIL CODE SECTIONS 51 AND 52, AND THE AMERICANS WITH**
7 **DISABILITIES ACT AS INCORPORATED BY CIVIL CODE SECTION 51(f)**

8 26. Plaintiff repleads and incorporates by reference, as if fully set forth hereafter, the
9 factual allegations contained in Paragraphs 1 through 25 of this Complaint and incorporates
10 them herein.

11 27. At all times relevant to this complaint, California Civil Code § 51 has provided that
12 physically disabled persons are free and equal citizens of the state, regardless of medical
13 condition or disability:

14 28. All persons within the jurisdiction of this state are free and equal, and no matter what
15 their sex, race, color, religion, ancestry, national origin, disability, or medical condition are
16 entitled to the full and equal accommodations, advantages, facilities, privileges, or services
17 in all business establishments of every kind whatsoever. Cal. Civ. C. § 51(b).

18 29. § 52 provides that the discrimination by Defendants against Plaintiff on the basis of
19 his disability constitutes a violation of the general anti-discrimination provision of §§ 51
20 and 52.

21 30. Defendants' discrimination constitutes a separate and distinct violation of California
22 Civil Code § 52, which provides that:

23 Whoever denies, aids or incites a denial, or makes any discrimination or
24 distinction contrary to section 51, 51.5, or 51.6 is liable for each and every offense for
25 the actual damages, and any amount that may be determined by a jury, or a court
26 sitting without a jury, up to a maximum of three times the amount of actual damage
27 but in no case less than four thousand dollars (\$4,000), and any attorney's fees that
28 may be determined by the court in addition thereto, suffered by any person denied the
rights provided in Section 51, 51.5, or 51.6.

31. Any violation of the Americans With Disabilities Act of 1990 (as pled in the Third Cause of Action) constitutes a violation of California Civil Code § 51(f) thus independently justifying an award of damages and injunctive relief pursuant to California law. Per § 51(f), “A violation of the right of any individual under the Americans With Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

32. The actions and omissions of Defendants as herein alleged constitute a denial of access to and use of the described public facilities by physically disabled persons within the meaning of California Civil Code §§ 51 and 52. As a proximate result of Defendants’ action and omissions, Defendants have discriminated against Plaintiff in violation of Civil Code §§ 51 and 52.

33. **FEES AND COSTS:** As a result of Defendants’ acts, omissions and conduct, Plaintiff has been required to incur attorney fees, litigation expenses and costs as provided by statute in order to enforce Plaintiffs rights and to enforce provisions of the law protecting access for disabled persons and prohibiting discrimination against disabled persons. Plaintiff therefore seeks recovery of all reasonable attorney fees, litigation expenses and costs pursuant to the provisions of California Civil Code §§ 51 and 52. Additionally, Plaintiff’s lawsuit is intended to require that Defendants make their facilities and policies accessible to all disabled members of the public, justifying “public interest” attorney fees, litigation expenses and costs pursuant to the provisions of California Code of Civil Procedure § 1021.5 and other applicable law.

Wherefore, Plaintiff prays the Court grant relief as requested herein below.

**THIRD CAUSE OF ACTION:
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990
42 USC §§ 12101 et seq.**

34. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in Paragraphs 1 through 33 of this Complaint, and incorporates them herein as if separately repled.

35. In 1990 the United States Congress made findings that laws were needed to more

1 fully protect “some 43,000,000 Americans [with] one or more physical or mental
 2 disabilities;” that “historically, society has tended to isolate and segregate individuals with
 3 disabilities;” that “such forms of discrimination against individuals with disabilities
 4 continue to be a serious and pervasive social problem;” that “the Nation’s proper goals
 5 regarding individuals with disabilities are to assure equality of opportunity, full
 6 participation, independent living, and economic self-sufficiency for such individuals;” and
 7 that “the continuing existence of unfair and unnecessary discrimination and prejudice
 8 denies people with disabilities the opportunity to compete on an equal basis and to pursue
 9 those opportunities for which our free society is justifiably famous...” [42 USC §12101]

10 36. In passing the Americans with Disabilities Act of 1990 (hereinafter “ADA”),
 Congress stated as its purpose:

11 It is the purpose of this Act

- 12 (1) to provide a clear and comprehensive national mandate for the elimination
- 13 of discrimination against individuals with disabilities;
- 14 (2) to provide clear, strong, consistent, *enforceable standards* addressing
- 15 discrimination against individuals with disabilities;
- 16 (3) to ensure that the Federal Government plays a central role in enforcing the
- 17 standards established in this Act on behalf of individuals with disabilities; and
- 18 (4) to invoke the sweep of congressional authority, including the power to
- 19 enforce the fourteenth amendment and to regulate commerce, in order to
- 20 address the major areas of *discrimination faced day-to-day* by people with
- disabilities. (Emphasis added)

21 42 USC § 12101(b).

22 37. As part of the ADA, Congress passed “Title III - Public Accommodations and
 23 Services Operated by Private Entities” (42 USC § 12181 *et seq.*). The subject property and
 24 facility is one of the “private entities” which are considered “public accommodations” for
 25 purposes of this title, which includes, per § 301(7)(E), “a..., shopping center, or other sales
 26 or rental establishment”; and, per § 301(7)(F), “a... bank... professional office of a health
 care provider..., or other service establishment.”

38. The ADA states that “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation.” 42 USC § 12182. The specific prohibitions against discrimination included, but were not limited to the following:

§ 302(b)(1)(A)(ii): “Participation in Unequal Benefit. - It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.”

§ 302(b)(2)(A)(ii): “a failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities...;”

§ 302(b)(2)(A)(iii): “a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied service, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services...;”

§ 302(b)(2)(A)(iv): “a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities... where such removal is readily achievable;”

§ 302(b)(2)(A)(v): “where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.”

39. The acts and omissions of Defendants set forth herein were in violation of Plaintiff’s rights under the ADA and the regulations promulgated there under, 28 CFR Part 36 *et seq.*

1 40. The removal of each of the barriers complained of by Plaintiff as hereinabove alleged,
2 were at all times herein mentioned "readily achievable" under the standards of §§ 301(9)
3 and 302 of the ADA. As noted hereinabove, removal of each and every one of the
4 architectural barriers complained of herein are also required under California law. Further,
5 on information and belief, construction, alterations, structural repairs or additions since
6 January 26, 1993 have also independently triggered requirements for removal of barriers to
access for disabled persons per § 303 of the ADA.

7 41. On information and belief, as of the date of Plaintiff's encounter at the premises and
8 as of the filing of this Complaint, the premises have denied and continue to deny full and
9 equal access to Plaintiff and to other disabled persons, including wheelchair users, in other
10 respects, which violate Plaintiff's rights to full and equal access and which discriminate
11 against Plaintiff on the basis of his disability, thus wrongfully denying to Plaintiff the full
12 and equal enjoyment of the goods, services, facilities, privileges, advantages and
13 accommodations, in violation of §§ 302 and 303 of the ADA. 42 USC §§ 12182 and 12183.

14 42. On information and belief, Defendants have continued to violate the law and deny the
15 rights of Plaintiff and other disabled persons access to this public accommodation since on
16 or before Plaintiff's encounters, as previously noted. Pursuant to the ADA, § 308, 42 USC
17 12188 *et seq.*, Plaintiff is entitled to the remedies and procedures set forth in § 204(a) of the
18 Civil Rights Act of 1964, 42 USC 2000(a)-3(a), as Plaintiff is "a qualified" disabled person
19 who is being subjected to discrimination on the basis of disability in violation of the ADA
20 and has reasonable grounds for believing that he is about to be subjected to discrimination
21 should he return to the subject premises. Pursuant to § 308(a)(2), "In cases of violations of
22 § 302(b)(2)(A)(iv) and § 303(a)... injunctive relief shall include an order to alter facilities to
make such facilities readily accessible to and usable by individuals with disabilities to the
extent required by this title."

23 WHEREFORE, Plaintiff prays for damages and injunctive relief as hereinafter
24 stated.

PRAYER

Plaintiff prays that this Court:

1. Issue a preliminary and permanent injunction directing Defendants as current owners, operators, lessors, and/or lessees of the subject property and premises to modify the above described property and premises and related facilities to provides full and equal access to all persons, including persons with physical disabilities; and issue a preliminary and permanent injunction pursuant to ADA § 308(a) and state law directing Defendants to provide facilities usable by Plaintiff and similarly situated persons with disabilities, and which provide full and equal access, as required by law.
2. Retain jurisdiction over the Defendants until such time as the Court is satisfied that Defendants' unlawful policies, practices, acts and omissions, and maintenance of physically inaccessible public facilities as complained of herein no longer occur, and can not recur;
3. Award to Plaintiff all appropriate damages, including but not limited to statutory damages and general damages in amounts within the jurisdiction of the Court, all according to proof;
4. Award to Plaintiff all reasonable statutory attorney fees, litigation expenses, and costs of this proceeding as provided by law;
5. Award prejudgment interest pursuant to Civil Code § 3291; and
6. Grant such other and further relief as this Court may deem just and proper.

Dated: May 28, 2014

/s/ Irene Karbelashvili

Irene Karbelashvili, Attorney for
Plaintiff RICHARD JOHNSON

DEMAND FOR JURY

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

Dated: May 28, 2014

/s/ Irene Karbelashvili

Irene Karbelashvili, Attorney for
Plaintiff RICHARD JOHNSON